IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

LA. App. No. 772 of 2001

LAR.43/1995 of SUB COURT, SULTHAN BATHERY
.....

APPELLANT/ CLAIMANT:

NEDUNGOTTUKANTI N.P. ONACHAN,
S/O. PURAVATH, MANANGUVAYAL,
MEENANGADI P.O.,
PURAKKADI VILLAGE,
SULTHAN'S BATTERY TALUK,
WAYANAD DISTRICT.

BY ADV. SRI. PHILIP MATHEW
SRI. G.G. MANOJ

RESPONDENTS/ RESPONDENTS:
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1. STATE OF KERALA REPRESENTED BY THE DISTRICT COLLECTOR OF WAYANAD, KALPETTA, WAYANAD DISTRICT.

2. SPECIAL TAHSILDAR (LA), KRP/BSIP, KALPETTA.

BY GOVERNMENT PLEADER SMT. K.R. DEEPA.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 24/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. NO. 772 OF 2001

Dated this the 24th day of October, 2007.

J U D G M E N T

Kurian Joseph, J.

This is an appeal filed against the judgment and decree in L.A.R. No. 43/1995 on the file of the Sub Court, Sulthan Bathery, at the instance of the claimant. The claimant has two grievances: no amount was granted for retainer wall and no compensation was granted for severance.

2. As far as the retainer wall is concerned, it has come out in evidence that the building is situated at a distance of 10 metres from the canal and that the canal has concrete side wall. In that view of the matter, construction of retainer wall is not necessary as a consequence of the acquisition. As far as the severance compensation is concerned also, there is no evidence before the reference court to grant any such compensation.

In the absence of evidence to establish the contentions, we do not find any merit in the appeal. It is made clear that in case the claimant has not been granted interest on solatium, being a settled position the claimant shall be entitled to get interest on solatium. Subject to the above clarification, the appeal is dismissed.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE

smp

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. NO. 772 OF 2001

J U D G M E N T

24.10.2007